

REMARKS

Pending claims 1-22 have been restricted and Group I, claims 1-10, directed to a fish feed composition and method of use, have been elected without traverse. The Examiner is requested to consider rejoinder of claims 11-22, directed to the process of same, or cancel such claims by Examiner's amendment without prejudice on allowance of the elected claims.

The subject matter of the present claims is to a flaked feed product as well as a method of using such flakes for feeding aquatic animals.

The present invention as claimed is to flakes of a uniform size and shape which are adapted to feeding aquatic animals. The flakes can be manufactured in a way that they keep their form and structure in contact with water and that they do not dissolve. Furthermore, the density, moisture and size of the flakes must be variable in order to prepare flakes that swim on the surface or reach preferred areas (mid-water or ground) depending on the preferences of the fish living in the body of water or tank of water.

The advantages of the present claimed flakes are the manufacturing process which starts with an extrusion step (see already issued U.S. Patent 6,426,101) and the form and the diameter of the extruded strings which allow the preparation of identical small cut pellets that may be pressed between rolls to obtain flakes of the same size, thickness and form. The crucial elements for the claimed flakes are its water content, from 1-30% and a thickness of 10 to 350 microns.

Reconsideration is respectfully requested of the rejection of claims 1-10 under 35 U.S.C. §103(a) as allegedly unpatentable over British 768189 in view of EP 0337573, Kim (US 5,773,051), Bunch (US 5,618,574) and Baensch (US 3,796,812).

The present claims are directed to a feed adapted for aquatic animals which have a thickness of between 10 and 350 microns. In contrast, the British patent teaches flakes for animals, particularly, fowl, made from granules or pellets which range from 500 to 1500 microns and have a moisture content between 12 and 45% during the processing stage. The material prepared in flakes is then dried and no indication of the moisture of the dried material is

provided. Although the patent desires “relatively thin flakes” (Col.2 line 81), the lowest range is 500 microns, with a preferred thickness of 700 microns (Col. 4, page 2, line 119). The patent does not provide any suggestion or motivation to make a thinner flake and is silent with regard to flakes for fish.

The EP patent also does not describe or suggest the limitations of the claimed invention. The feed is directed to dogs or cats and not aquatic animals, and the particles, including flakes, have a thickness from 200 to 3,000 microns. Although the lower limit overlaps with the claimed range here, the EP patent does not show uniform shaped flakes and does not describe any moisture content or any need thereof.

With regard to combining the EP patent with the British patent, there is still no suggestion to make flakes for aquatic animals, e.g. fish with the uniform shaped, thin flakes having a required thickness and water content. Combining references requires a suggestion from one of these references to make the combination. The British patent addresses flakes for fowl where a required water content is desired as well as thin flakes. In contrast, the EP patent describes flakes for dogs and cats without any thought of moisture content. Thus, there appears to be no suggestion to combine these references, and here especially, where applicants' invention are fish food which is used in fresh and sea water. The foods in the references cited above are provided for animals fed on land.

The additional three reference address fish feed but do not fill the void of applicants' claimed invention. Kim describes a fish food that refloats after initially sinking. Flakes have a water content within range of applicants' claims but a thickness outside the range, 500 microns. (Col.2, line 32). Koi describes a particular fish food to promote the growth, efficiency, or coloration of fish. (See Abstract and Claims). Koi is totally silent with regard to moisture content and thickness of flakes produced. Finally, Baensch describes a fish food which may be shaped or irregularly shaped and a wall thickness of 100 to 1,000 microns (Col. 2, line 40). Baensch is silent with regard to water content.

The combination of the fish food references do not provide any suggestion or motivation to make the flaked fish feed of the present claimed invention. Further, there is no suggestion to combine the fish food references with the references directed to feed for fowl, or cats and dogs. Even assuming *arguendo* that there were a suggestion to combine all of the references, the motivation to make the fish food as claimed herein is not there for the skilled person in the aquatic food technology field.

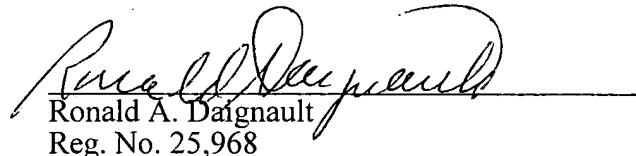
SUBMISSION OF SIGNED DECLARATION

Applicants hereby submit an executed Combined Declaration and Power of Attorney in connection with the above-identified application. A declaration was filed unexecuted with the filing of the application on September 22, 2003. A Notice to File Missing Parts was never received. Thus, an executed declaration was not filed and we submit herewith the signed declaration accompanying the appropriate fee. Please charge our Deposit Account No. 13-2725 in the amount of \$130.00 surcharge for this submission. A duplicate copy of our Transmittal Sheet is attached for this purpose.

In view of the above, it is respectfully requested that the Examiner's rejection be withdrawn. It is respectfully submitted that claims 1-10 are allowable over the art cited. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the telephone number listed below.

Respectfully submitted,

2/28/2005
Date


Ronald A. Daignault
Reg. No. 25,968

Merchant & Gould P.C.
P. O. Box 2903
Minneapolis, MN 55402-0903
(202) 625-8380

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